



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 30 2005

Honorable Utoofili Aso Maga, MBA, MPH  
Director of the American Samoa Department of Health  
Government of American Samoa  
Pago Pago, American Samoa 96799

Dear Director Utoofili Aso Maga :

This is to inform you that we have conditionally approved American Samoa's Application, including policies, procedures, methods, descriptions, and assurances, for Federal Fiscal Year (FFY) 2005 under Part C of the Individuals with Disabilities Education Act (IDEA) and with two sets of special conditions (one programmatic under Part C and the other fiscal) under the regulations governing "high risk" grantees in 34 CFR §80.12. Enclosed are two attachment detailing the special conditions and the reasons for considering American Samoa a high-risk grantee under Part C of the IDEA: (1) Enclosure B, which identifies the special conditions imposed to ensure the timely identification, evaluation and provision of early intervention services to infants and toddlers with disabilities; and (2) the Department of Education's (Department) June 23, 2005 letter, which identifies special conditions to ensure fiscal accountability of Federal Part C funds.

Our determination that the American Samoa Department of Health (ASDOH) is eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on July 18, 2005, amended on August 15, 2005, and further amended on September 6, 2005 by ASDOH to the U.S. Department of Education, Office of Special Education Programs (OSEP), in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2005 grant period; and
3. Make such changes to, and submit for OSEP's approval, existing policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application, or July 1, 2006. Section II of its application (which is incorporated by reference and enclosed with this grant letter), identifies the IDEA statutory sections for which the State needs to amend policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department has determined that American Samoa is a "high risk" grantee for purposes of Part C of IDEA for FFY 2005. OSEP is releasing American Samoa's FFY 2005 IDEA Part C grant award subject to the FFY 2005 special conditions, as set forth in Enclosure B, which is incorporated into the terms of this grant letter. The special conditions are imposed to ensure that the timely identification and evaluation of, and provision of early intervention services to, infants and toddlers with disabilities and their families in American Samoa. American Samoa's acceptance of its award constitutes an agreement to meet the programmatic Part C Special Conditions in Enclosure B, which require a progress report by November 21, 2005 and a final progress report by April 14, 2006. American Samoa must also submit with these Progress Reports under the Special Conditions, its updated property inventory lists required to be maintained by EDGAR in 34 CFR §80.32.

American Samoa's FFY 2005 IDEA Part C grant award is also being released subject to fiscal special conditions identified in the enclosed U.S. Department of Education's June 23, 2005 letter to American Samoa (which is incorporated in this grant letter by this reference) regarding the Single Audit Act that are being imposed pursuant to the Department's authority in 34 CFR §80.12. By accepting this grant award, American Samoa agrees to accept the special conditions identified in the Department's enclosed June 23, 2005 letter.

Please note that as part of ASDOH's Application for FFY 2005, American Samoa has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2005 grant period. Any changes made by the State, after OSEP approval, to the State's Part C application (including policies and procedures) must meet the public participation requirements of IDEA, including those in 20 U.S.C. 1232d(b)(7).

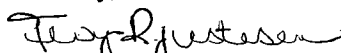
Section IV.B of the FFY 2005 application for Part C funds requested updated information about each State's restricted indirect cost rate. Although ASDOH initially indicated in Section IV.B. of its FFY 2005 Part C application that it had an approved indirect cost rate, our records indicate, and ASDOH confirmed in September 2005, that ASDOH does not have an approved restricted indirect cost rate as required under the Education Department General Administrative Regulations (EDGAR) at 34 CFR §§76.560 through 76.569. Thus, ASDOH may not and will not charge indirect costs to its FFY 2005 Part C grant until it has an approved restricted indirect cost rate approved by the Department. In addition, ASDOH submitted in its budget an amount for rent for space that is used exclusively by the Part C program. OSEP is approving the rental expense provided that this cost is for space that is used exclusively for the children and families eligible under the Part C program.

The enclosed grant award for FFY 2005 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education  
Programs

Enclosure

cc: Jean Asuega  
Part C Coordinator